

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) CRIMINAL NO. 04-10306-PBS
)
TREVOR CHARLTON)

DEFENDANT'S MODIFIED REQUEST FOR REASONABLE DOUBT INSTRUCTION

Defendant respectfully requests that the court's Proposed Jury Instruction on Reasonable Doubt be modified. The court in Instruction No. 14 - Reasonable Doubt has included the sentence:

Reasonable doubt is a doubt based on reason and common sense.

Defendant requests that the court change this sentence to the following:

Reasonable doubt exists when, after weighing and considering all of the evidence, using reason and common sense, jurors cannot say that they have a settled conviction of the truth of the charge.

United States v. Cleveland, 106 F.3d 1056, 1062 (1st Cir. 1998).

This language has been cited with approval by the First Circuit. Id.; see also United States v. O'Shea, 426 F.3d 475, 482 (1st Cir. 2005); United States v. Woodward, 149 F.3d 46, 69 (1st Cir. 1998); Modern Federal Jury Instructions, 2005 Edition, First Circuit Pattern Jury Instructions (Criminal Cases), § 3.02, comment 4.

TREVOR CHARLTON
By his attorneys,

/s/ J. Martin Richey
J. Martin Richey
B.B.O. # 559902

/s/ Catherine K. Byrne
Catherine K. Byrne
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CERTIFICATE OF SERVICE

____ I, Catherine K. Byrne, hereby certify that this document filed through the ECF system will be sent electronically to the registered participant, Assistant U.S. Attorney Robert E. Richardson, as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on March 16, 2006.

_____/s/Catherine K. Byrne

Catherine K. Byrne

